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6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

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9 BARBARA K. ANDERSON,

10 Plaintiff,

11 v.

12 BANK OF AMERICA, N.A. MELON, *et al.*,

13 Defendants.

Case No. 2:17-cv-00103-MMD-CWH

ORDER ADOPTING AND ACCEPTING
REPORT AND RECOMMENDATION OF
MAGISTRATE JUDGE
CARL W. HOFFMAN, JR.

14 Before the Court is the Report and Recommendation of United States Magistrate
15 Judge Carl W. Hoffman, Jr. (ECF No. 8) ("R&R") relating to Plaintiff's application to
16 proceed *in forma pauperis* (ECF No. 4) and pro se complaint. Plaintiff had until May 5,
17 2017, to object to the R&R. (ECF No. 8.) To date, no objection to the R&R has been
18 filed.

19 This Court "may accept, reject, or modify, in whole or in part, the findings or
20 recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1). Where a party
21 timely objects to a magistrate judge's report and recommendation, then the court is
22 required to "make a *de novo* determination of those portions of the [report and
23 recommendation] to which objection is made." 28 U.S.C. § 636(b)(1). Where a party fails
24 to object, however, the court is not required to conduct "any review at all . . . of any issue
25 that is not the subject of an objection." *Thomas v. Arn*, 474 U.S. 140, 149 (1985).
26 Indeed, the Ninth Circuit has recognized that a district court is not required to review a
27 magistrate judge's report and recommendation where no objections have been filed. See
28 *United States v. Reyna-Tapia*, 328 F.3d 1114 (9th Cir. 2003) (disregarding the standard

1 of review employed by the district court when reviewing a report and recommendation to
2 which no objections were made); *see also Schmidt v. Johnstone*, 263 F. Supp. 2d 1219,
3 1226 (D. Ariz. 2003) (reading the Ninth Circuit's decision in *Reyna-Tapia* as adopting the
4 view that district courts are not required to review "any issue that is not the subject of an
5 objection."). Thus, if there is no objection to a magistrate judge's recommendation, then
6 the court may accept the recommendation without review. *See, e.g., Johnstone*, 263 F.
7 Supp. 2d at 1226 (accepting, without review, a magistrate judge's recommendation to
8 which no objection was filed).


9 Nevertheless, this Court finds it appropriate to engage in a *de novo* review to
10 determine whether to adopt Magistrate Judge Hoffman's R&R to dismiss the complaint
11 with leave to amend. Upon reviewing the R&R and complaint, this Court finds good
12 cause to adopt the Magistrate Judge's R&R in full.

13 It is therefore ordered, adjudged and decreed that the Report and
14 Recommendation of Magistrate Judge Carl W. Hoffman, Jr. (ECF No. 8) is accepted and
15 adopted in its entirety.

16 It is ordered that the complaint is dismissed with leave to amend to permit Plaintiff
17 to address the deficiencies identified in the R&R (ECF No. 8 at 3-4). Plaintiff will have
18 thirty days (30) after entry of this order to file a proposed amended complaint, which will
19 be subject to screening. Failure to file an amended complaint will result in dismissal of
20 this action.

21 It is further ordered that Plaintiff's proposed temporary restraining order to be
22 heard on order shortening time (ECF No. 7) is denied as moot.

23 DATED THIS 8th day of May 2017.

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26 _____
27 MIRANDA M. DU
28 UNITED STATES DISTRICT JUDGE